



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. MCTIGUE
DIRECTOR

May 28, 1991
AO-91-11

Senator Arthur Chase
State House
Room 518
Boston, MA

Re: Donation of District Office Space
Purchase of Equipment

Dear Senator Chase:

This letter is in response to your letter requesting an advisory opinion. I apologize for the delay in response.

Your letter does not set forth specific facts about which you seek guidance. Instead, you ask four questions. Two of your questions concern space to be used for a district office. The other two questions concern the purchase of equipment for your legislative office at the State House. This opinion will provide answers separately to each of your questions which I paraphrase below.

1. May a Massachusetts business corporation wholly owned by a state senator donate space to be used as a district office provided the space is used only for legislative activities?

The Massachusetts campaign finance law prohibits business corporations and certain other corporations from making political contributions. M.G.L. c.55, s.8 provides, in pertinent part:

[N]o business corporation incorporated under the laws of or doing business in the commonwealth . . . shall directly or indirectly give, pay, expend or contribute . . . any money or other valuable thing for the purpose of aiding, promoting or preventing the nomination or election or any person to public office . . .

While this section prohibits a business corporation from making such contributions, it does not prohibit a business corporation from making non-political contributions such as the donation of

space for use as a district office for a state senator under the circumstances enunciated in your question. I note that there may be situations where the conflict of interest law, M.G.L. c.268A, may have a bearing on your question. For guidance on conflict of interest matters, the State Ethics Commission should be consulted.

Provided a district office contributed by a state senator's wholly-owned business corporation is used only for legislative business such a contribution would be considered non-political. Therefore, such a contribution would not be subject to the campaign finance law. If the district office were used, even if only occasionally, for campaign purposes, such use would result in an in-kind corporate contribution in violation of section 8 of chapter 55.

2. May a state senator use his wholly-owned corporation's business office on an occasional basis for legislative activities?

The reasoning set forth in answer to question 1 applies as well to question 2. Provided legislative activities do not in fact include political activities regulated by chapter 55, there is no prohibition in chapter 55 against the occasional use suggested by question 2.

3. May campaign funds be used to purchase equipment for a state senator's State House office provided such equipment is used only for legislative matters?

M.G.L. c.55, s.6 provides, in pertinent part, that political committees such as yours:

. . . may receive, pay and expend money or other things of value for the enhancement of the political future of the candidate . . . , for which the committee was organized so long as such expenditure is not primarily for the candidate's personal use . . .

Therefore, in order for a political committee to purchase equipment for your State House office, the primary purpose of the committee's expenditure must be political in nature, generally for use in a campaign.

In earlier advisory opinions, this Office has concluded that political committees could expend funds to purchase certain equipment provided that the primary purpose was for use in a political campaign or for the enhancement of a candidate's political future.

This Office has, however, distinguished between one's responsibilities as a public official and one's activities as a political candidate. While a political committee may pay for services related to political activities, it has been the long

standing opinion of this Office that a political committee may not pay for services where the primary purpose is to aid a candidate in carrying out the duties of his or her governmental position. For example, this Office has concluded that a state representative could not purchase a set of Massachusetts general laws to aid in his job as a state representative (see A0-87-05A).

You have explicitly stated in your letter that the equipment to be purchased by your committee would be used only for legislative matters. Therefore, I must conclude that your political committee may not expend funds to purchase such equipment.

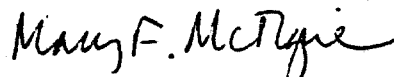
4. May a state senator use his personal funds to purchase equipment for his State House office provided such equipment is used only for legislative matters?

As noted in the answer to question 3, the campaign finance law prohibits a political committee from making expenditures which are primarily for an individual's personal use. Personal use, in the context of section 6 of chapter 55, is a "term of art" which includes all non-political uses. For example, such "personal use" includes professional, family, social and legislative uses. However, nothing in the campaign finance law prohibits a state senator from using his or her personal funds to purchase equipment for the legislator's State House office provided such equipment is to be used for legislative matters.

This opinion has been rendered solely on the basis of the representations made in your letter and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this Office should you have additional questions.

Very truly yours,



Mary F. McTigue
Director